IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

Bail Appl..No. 7519 of 2007()

CRIME NO.2056/07 OF ALUVA POLICE STATION.
.....

PETITIONERS: ACCUSED:

RIJO RAPHEL, S/O.LATE RAPHEL,
MOOLAN VEEDU, MALAYATTOOR KARA,
MALAYATTOOR VILLAGE, ALUVA TALUK.

BY ADV. SRI.K.SUNILKUMAR

RESPONDENTS: COMPLAINANT;

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.7519 of 2007

Dated this the 7th day of December 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Sections 353 and 341 I.P.C. The petitioner was allegedly the driver of a tipper lorry. He had made attempt to overtake a KSRTC bus. The driver of the KSRTC bus allegedly could not give space to the petitioner to proceed. On account of this animosity, he overtook the KSRTC bus, stopped in front of it and allegedly assaulted the de facto complainant, KSRTC bus driver. He allegedly suffered injuries. Allegations are raised under Section 353 I.P.C. The victim/KSRTC bus driver was taken to the hospital. Except complaints of pain, there was no injury.

2. The learned counsel for the petitioner submits that on an innocuous quarrel which took place between the drivers of two vehicles, fanciful and exaggerated allegations are being raised. The de facto complainant is only taking the advantage of the superior position as the driver of the KSRTC bus to unnecessarily vex and harass the petitioner. The petitioner may be saved of the undeserved trauma of arrest and incarceration, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor does not oppose the application for anticipatory bail. I am satisfied, in the facts and circumstances of this case to which I have already made brief reference, that the petitioner can be granted anticipatory bail subject to appropriate terms and conditions. In the absence of opposition, it is not necessary to advert to facts in greater detail in this order.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 14/12/2007. He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 15/12/2007 and thereafter as and when directed by the investigating officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(iv) If he were arrested prior to 14/12/2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 14/12/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007